

## **REMARKS**

### **Claims**

Claims 1-5 remain pending in the application with claim 1 in independent form. Claims 1-5 have been amended as described below. No new matter has been added as a result of these amendments.

### **Claim Objections**

Claims 1-5 stand objected to for informalities, specifically the use of the phrase “characterized in that”.

Claims 1-5 were amended in the Amendment submitted on May 24, 2010 (“the previous Amendment”) to remove this phrase. As such, it is respectfully suggested that this objection has already been overcome.

### **Claim Rejections under 35 U.S.C. § 102**

Claims 1, 2, 4, and 5 stand rejected under 35 U.S.C. §102(b) as being anticipated by Krohn et al. (U.S. Patent No. 5,787,874). Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Krohn et al. in view of Welz, Jr. et al. (U.S. Patent No. 6,247,919).

As stated in previous responses, the Applicant respectfully asserts that since Krohn et al. does not disclose, teach, or suggest both a thermoelectric flame failure device valve and a main valve, then Krohn et al. simply cannot anticipate the recitation of claim 1, prior to amendment.

However, in an effort to more distinctly recite the structural and functional differences between the present invention and the device disclosed in Krohn et al., claim 1 has been amended. Notably, claim 1 has been amended to recite that the thermoelectric flame failure device valve is disposed between a gas inlet and an initial aperture while the main valve is disposed between the initial aperture and a main gas outlet. The initial aperture includes an opening to a pilot gas outlet. As such, the thermoelectric flame failure device valve can be used to cut off gas to both a pilot light and a main burner, while the main valve does not interrupt the flow of gas to the pilot light.

The amended subject matter is fully supported by the specification, including the Figure, as originally filed. As such, no new matter has been added as a result of this amendment.

Krohn et al. does not disclose, teach, or suggest the device recited in amended claim 1. As such, it is respectfully suggested that the Examiner's rejection of claim 1 under §102(b) has been overcome.

### **Claim Rejections under 35 U.S.C. § 103**

Claims 1-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over HeaTec (European Patent Document No. EP 1 188 989 A2) in view of Saunier (French Patent Document No. 2 561 757 A).

In a Request for Reconsideration submitted on August 30, 2010, arguments were submitted regarding the rejection of claims 1-5 as being unpatentable over HeaTec in view of Saunier. In an Advisory Action mailed September 14, 2010, the Examiner indicated that these arguments were persuasive. Therefore, for the purposes of brevity,

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such arguments are not repeated herein, and it is respectfully suggested that the rejections of claims 1-5 under §103(a) have been traversed if not additionally overcome by the above described amendments.

As both rejections of claim 1 have been traversed or overcome, it is respectfully suggested that this claim is allowable. Claims 2-5 have also been amended to remove instances of the word “patent” and improper use of the term “consists of”. As these claims are dependent, either directly or indirectly, on the novel and nonobvious claim 1, it is suggested that these dependent claims are also allowable.

It is respectfully submitted that the application is now presented in condition for allowance. The fees for a one-month extension of time the Request for Continued Examination are submitted herewith. It is believed that no other fees are due. However, the Commissioner is authorized to charge our Deposit Account No. 08-2789 for any additional fees or credit the account for any overpayment.

Respectfully submitted,

**HOWARD & HOWARD ATTORNEYS PLLC**

/Matthew Binkowski/

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Date

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